

DECLARATION OF ASSISTANT ATTORNEY GENERAL MAKAN DELRAHIM

I, Makan Delrahim, declare as follows:

1. I am the Assistant Attorney General for the United States Department of Justice, Antitrust Division. I am licensed to practice law in the District of Columbia. I make this declaration based on my personal knowledge, and if called upon as a witness, I could and would competently testify as to the matters set forth below.

Background

2. I was sworn in as the Assistant Attorney General for the Antitrust Division on September 29, 2017. Since at least 1998, when I served as counsel to the U.S. Senate Committee on the Judiciary, with oversight of the Department of Justice, I have held a deep appreciation for the need to maintain the Department of Justice's independence from political interference. My appreciation for the need to maintain that independence continued throughout my previous tenure in the Antitrust Division as Deputy Assistant Attorney General under the George W. Bush administration, and it continues to this day.

3. As I noted in my Senate confirmation hearing and in written responses thereafter, I strongly believe that there should be no political influence in antitrust law enforcement decisions. All investigations conducted by the Antitrust Division should be initiated and conducted in a fair, professional, and impartial manner, without regard to political considerations. Consistent with this commitment, and as described below, all of my decisions regarding the proposed acquisition of Time Warner Inc. by AT&T Inc. ("the Transaction") have been made on the merits, without regard to political considerations.

Decision to File the Complaint

4. After my arrival at the Antitrust Division, I familiarized myself with the facts, legal theories, and economic analysis that had been developed during the course of the staff's investigation of the Transaction. Prior to that, I had no information regarding the facts or economic analysis developed in the staff's investigation on which to formulate an informed view of the Transaction. I consulted at length within the Antitrust Division as to the likely impacts of the Transaction on competition and American consumers. I subsequently made the decision to file the Complaint based solely on my own judgment and the input I received from those in the Antitrust Division. My decision was based on the merits and my belief that the Transaction would likely substantially lessen competition and harm American consumers in violation of Section 7 of the Clayton Act.

5. It has been suggested that my decision to file the Complaint seeking to block this Transaction may have been motivated in some way by animus towards CNN, a network owned by Turner, which is itself owned by Time Warner. That is false. CNN's exercise of its First Amendment rights, and its editorial content, played no role in my consideration of the Transaction or decision to file the Complaint. I fully support CNN's rights, and the rights of all journalists, to express their views, and I would never use the antitrust laws to inhibit those rights, nor would I support or condone the use of the antitrust laws for such purposes.

6. Likewise, my consideration of this Transaction took no account of the views of anyone else (including then-candidate or President Trump or anyone at the White House) as to CNN's editorial content or exercise of First Amendment rights. Those were not factors that played any role in my consideration of the Transaction and any suggestions to the contrary are false.

7. At no time did I receive orders, instructions, or directions relating to the Transaction or the decision to file the Complaint from any of the following people or entities: (a) President Donald Trump, the Executive Office of the President, or any related representatives or staff; (b) the Attorney General or any related representatives or staff; (c) the Deputy Attorney General or any related representatives or staff; (d) the Associate Attorney General or any related representatives or staff; or (e) anyone else in the Department of Justice outside of the Antitrust Division. As is typical for major litigation, prior to the filing of the Complaint, I briefed others in the Department of Justice regarding my decision.

Meetings with the Parties

8. Before I made the decision to file the Complaint, I had several meetings with the parties about the Transaction. During those meetings, there were discussions regarding a number of possible divestitures or other ways to modify the Transaction that might have effectively eliminated its likely anticompetitive effects and therefore may have been acceptable to the Division. I describe several of those meetings below.

9. On November 6, 2017, I met with representatives of AT&T Inc. including CEO Randall Stephenson to discuss the Transaction. This followed multiple in-person meetings and telephone calls with David McAtee (AT&T's General Counsel) in a span of four weeks, where we had discussed possible settlement offers by the Antitrust Division that were rejected by AT&T. I was joined by Andrew Finch (Principal Deputy Assistant Attorney General). We discussed the Division's concerns that the Transaction would likely substantially lessen competition. I suggested potential divestitures and other modifications that might resolve our concerns without preventing the Transaction altogether, including one that would have permitted AT&T to close a transaction that would have enabled it to purchase the Turner networks

(including CNN) and another that would have involved the creation of a joint venture between AT&T and the Turner networks to enable AT&T to achieve certain efficiencies that it claims arise out of the Transaction.

10. During that meeting, Mr. Stephenson asked me whether I would approve the Transaction if the merged company agreed to sell CNN. I responded, unequivocally, no, that would not resolve our concerns. I then encouraged Mr. Stephenson to bring me other ideas for a potential settlement. Before the meeting ended, Mr. Stephenson told me that when he left, he wanted the “clock” to start running, indicating he was triggering a provision in the Division’s timing agreement with the parties that would require the Division to bring a lawsuit to block the Transaction within 21 days.

11. On November 8, 2017, I met with representatives of Time Warner Inc. to discuss the Transaction. Time Warner requested the meeting, which was held the same day I announced the establishment of the James F. Rill Fellowship Program. This is relevant because I had invited former Attorney General William P. Barr to introduce Mr. Rill (who served as Assistant Attorney General for Antitrust under then-Attorney General Barr) at the event announcing the fellowship. Former Attorney General Barr currently serves on the Board of Time Warner, and because he was already in the Main Justice building he asked to attend my meeting with Time Warner executives. I agreed.

12. At the meeting, I was joined by Mr. Finch and Don Kempf (Deputy Assistant Attorney General for Litigation). Time Warner was represented by Jeffrey Bewkes (Time Warner’s Chairman and CEO) and Paul Cappuccio (Time Warner’s Executive Vice President and General Counsel), in addition to Former Attorney General Barr.

13. During the meeting, we discussed the Transaction and the possibility of a settlement. Time Warner advocated a behavioral consent decree suggested by AT&T. I explained our concerns why that relief would not effectively resolve the Division's projected harm to consumers. I then described the potential divestitures and other modifications to the Transaction that I had previously raised with AT&T.

14. At one point during the meeting, a member of my staff entered the room and handed me breaking news relating to the Antitrust Division: Relying on anonymous sources, various media sources were reporting that I had demanded the sale of CNN during settlement negotiations with AT&T. I shared the news with my colleagues and the Time Warner representatives in the meeting, and I stated that the reports were entirely false.

15. At the end of our meeting, Mr. Cappuccio stood up from his seat at the conference table, wagged his finger at me, and said that if the Antitrust Division goes through with this, the case will be "a sh*tshow like you've never seen," and that it would be like "Jimmy Hoffa and the firing of Jim Comey." I interpreted Mr. Cappuccio's comments to mean that if we brought this enforcement action, Defendants would employ personal attacks to denigrate the integrity of the Antitrust Division and myself. Former Attorney General Barr appeared uncomfortable and pushed his chair back from the table. The meeting ended shortly thereafter.

16. The Antitrust Division's reputation for integrity is more important than my own. As Assistant Attorney General, my role is to improve the institution and preserve its integrity. Political influence has no place in the Antitrust Division's review of proposed acquisitions, and it had no role in the Antitrust Division's decisions regarding the Transaction.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 15th day of February, 2018.

A handwritten signature in blue ink, appearing to read "Andrew Paul", is written over a horizontal line.

DECLARATION OF ANDREW C. FINCH

I, Andrew C. Finch, declare as follows:

1. I am the Principal Deputy Assistant Attorney General for the Antitrust Division of the United States Department of Justice. I am licensed to practice law in the District of Columbia, California, and New York. I make this declaration based on my personal knowledge, and if called upon as a witness, I could and would competently testify as follows.

2. From April 10, 2017, through September 28, 2017, I served as the acting Assistant Attorney General for the Antitrust Division, and in that capacity I supervised the investigation into AT&T Inc.'s proposed acquisition of Time Warner Inc. (the "Transaction"). While I was supervising the investigation, the Antitrust Division was both actively preparing for litigation (should it be necessary) and exploring potential settlement paths with the parties.

3. On several occasions over the course of the investigation, I expressed to the parties that I was skeptical about whether a consent decree that relied on behavioral remedies would be appropriate and that the Division was preparing for litigation if necessary. Among other occasions, I expressed that view on August 2, 2017, during a teleconference with representatives of AT&T and Time Warner. During that call, I also invited the parties to explore whether a divestiture might lead to an effective resolution. I did not specify any particular business units that they might consider divesting, but encouraged the parties to think creatively about whether a divestiture might address the Division's competitive concerns.

4. I also met in person with David McAtee (AT&T's General Counsel) on September 13, 2017. I again expressed skepticism regarding whether a consent decree that

contained only behavioral conditions would be satisfactory, and I again encouraged AT&T to consider possible divestitures. During that meeting, I also outlined my concerns with the Transaction to Mr. McAtee and informed him that, if it were up to me, I would sue to block it.

5. After Makan Delrahim was sworn in as Assistant Attorney General (AAG) in late September 2017, we had several meetings and conversations with AT&T and Time Warner senior executives. On November 6, 2017, AAG Delrahim and I met with Randall Stephenson (AT&T's CEO) and Mr. McAtee to discuss the Transaction. At that meeting, Mr. Stephenson asked whether, if AT&T divested CNN, that would resolve the Division's concerns. AAG Delrahim told him that it would not. AAG Delrahim did, however, suggest that other potential divestitures or modifications to the Transaction might address the Division's concerns, including the divestiture of DIRECTV or the divestiture of the Turner networks along with the creation of a joint venture that might enable AT&T to pursue efficiencies that it claimed it would achieve through the Transaction. AAG Delrahim also encouraged AT&T to present any other divestitures or changes to the Transaction that it believed might address the Antitrust Division's concerns.

6. I also attended a meeting with Time Warner senior executives on November 8, 2017. In addition to myself, those present at the meeting were AAG Delrahim, Deputy Assistant Attorney General Donald Kempf, Time Warner CEO Jeff Bewkes, Time Warner General Counsel Paul Cappuccio, and Time Warner Board Member and former Attorney General William Barr. During the meeting, the Time Warner representatives attempted to persuade us that the Antitrust Division should not challenge the Transaction and should instead enter into a consent decree that would include only behavioral relief (and not any divestitures). Toward the

end of the meeting, Mr. Cappuccio stabbed his finger in the air at AAG Delrahim and said: "If you do this, it's going to be a sh*t show. It's going to be like Jimmy Hoffa and Jim Comey."

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 16th day of February, 2018.

A handwritten signature in blue ink, appearing to read "Andrew C. King", is written over a horizontal line.

DECLARATION OF WILLIAM P. BARR

I, William P. Barr, declare as follows:

1. My name is William P. Barr and I reside in McLean, Virginia. I served as the 77th Attorney General of the United States, from 1991 to 1993 during the administration of President George H.W. Bush. Previously, I also served in the Department of Justice as Deputy Attorney General, from 1990 to 1991, and as Assistant Attorney General for the Office of Legal Counsel from 1989 to 1991.
2. I also served from 1994 through 2008 as Executive Vice President and General Counsel of Verizon, Inc., one of the nation's largest telecommunications companies, and its predecessor.
3. Since 2009, I have also served as a member of the Board of Directors of Time Warner Inc., and in that capacity reviewed the proposed merger between AT&T and Time Warner Inc. and voted, along with all other Board members, to approve it.
4. In these various capacities, I have gained substantial knowledge and expertise in the media and telecommunications businesses and the state of the marketplace in which they operate, as well of course with all aspects of federal law enforcement, including antitrust enforcement.
5. I have reviewed the declarations of Messrs. Makan Delrahim and Andrew Finch, which I am informed were handed to this Court during the status conference on February 16, 2018. Those declarations relate, in part, to a meeting on or about November 7, 2017 that I attended on behalf of Time Warner together with Time Warner Chairman and CEO Jeffrey Bewkes, and Time Warner General Counsel Paul Cappuccio. Makan Delrahim, Andrew Finch, and Donald Kempf attended on behalf of the Department of Justice.
6. The accounts of this meeting in the declarations of Messrs. Delrahim and Finch are inaccurate and incomplete.
7. At that meeting, we discussed the Division's theory of harm concerning the merger of AT&T and Time Warner. I explained that the Antitrust Division's alleged theory was inconsistent with decades of settled antitrust law and the Department of Justice's own internal merger guidelines. I also explained that the hypothetical bargaining "model" predicting harm to consumers was insubstantial, unrealistic, and bore no relationship to how the media and telecommunications marketplaces actually function.
8. Notwithstanding this view that the merger posed no harm, we also addressed the multiple remedies that Time Warner and AT&T had offered to address any potential concerns about the merger. Mr. Delrahim would not engage in a meaningful discussion of this subject and, in particular, would not provide an explanation why the proposed remedies did not fully address any harm that the Division claimed could occur as a result of this merger.
9. Instead, Mr. Delrahim repeated his position that he was opposed to behavioral remedies. I told Mr. Delrahim that was a superficial distinction and that the remedies proposed by Time Warner and AT&T were self-executing, structural remedies that did not require any on-going supervision by the Department of Justice.
10. The statements in Messrs. Delrahim and Finch's declarations concerning what Mr. Cappuccio said at the meeting are incorrect. Mr. Cappuccio did not stand up and wag his finger at Mr.

Delrahim and I do not recall any references to either James Comey or Jimmy Hoffa. No reasonable person could have misinterpreted Mr. Cappuccio's comments as a threat that the companies would personally attack Mr. Delrahim or anyone else in the event of litigation.

11. To the contrary, Mr. Cappuccio's point was that the Department's filing of a lawsuit (not the merging parties) would cause a public political and media frenzy. That is because, given the President's prior public animus towards CNN and this merger, Mr. Delrahim's own prior statements the merger raised no major antitrust problems, the unrealistic nature of the Division's core theory of competitive harm, and Mr. Delrahim's inexplicable unwillingness to consider less draconian measures to address the Division's stated concerns, many would understandably question whether the Division had a genuine basis for bringing this enforcement action or instead was acting to serve a political end. I agreed with that view then and I agree now.
12. Mr. Delrahim's statement in his declaration that I appeared uncomfortable at what Mr. Cappuccio said at the meeting is also wrong. The discomfort I felt at the end of the meeting was the result of my concern that Mr. Delrahim's position about the alleged harms from the merger and his inexplicable ipse dixit rejection of remedies short of extreme divestitures were the product not of a well-versed substantive analysis, but rather political or other motivation. As the former Attorney General, that is disturbing to me.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 17th day of February, 2018.


